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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,863	12/10/2003	Gil G. Dudkiewicz	051448-0212	8062
23392 7590 09/25/2007 FOLEY & LARDNER 2029 CENTURY PARK EAST SUITE 3500 LOS ANGELES, CA 90067			EXAMINER PARRA, OMAR S	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 09/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/733,863

Applicant(s)

DUDKIEWICZ, GIL G.

Examiner

Omar Parra

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/10/2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1-8 and 14-26** are rejected under 35 U.S.C. 102(e) as being anticipated by Barton et al. (hereinafter 'Barton', Pub. No.2006/0248558).

Regarding claims 1, 14 and 15, Barton teaches a method in a video distribution system, comprising:

receiving input from a user at a set-top box representing viewer preferences
(**'collection' 104 Fig. 1 or [0038], [0095]-[0097], [0207]**);

storing viewer preference data representing the viewer preferences in the set-top box (**[0018], [0095]-[0098]**);

transmitting the viewer preference data to a remote device (**[0099], [0103]-[0104], [0207]**); and

storing the viewer preference data at the remote device (**[0103]-[0104]**).

Regarding claims 2 and 25, Barton teaches a method in a video distribution system, wherein the remote device is provided at a head end device of the video distribution system (**Central site 100, Fig.1 or [0038]**).

Regarding claims 3 and 26, Barton teaches a method in a video distribution system, wherein the remote device is provided at a multiple service operator device of the video distribution system (**Central site 100, which hosts central database, provides services to multiple clients connected through broadcast transmission 108 or through telephony servers in connection-based transmission 109. See Fig. 1).**

Regarding claim 4, Barton teaches a method in a video distribution system, further comprising transmitting the updated viewer preference data from the remote device to the set-top box (**Replication 105, Fig. 1 or [0101], [0192]-[0205]**).

Regarding claim 5, Barton teaches a method in a video distribution system, further comprising:

transmitting metadata describing the subject matter of video programs to the set-top box (**[0108]-[0109]**); and

performing processing in the set-top box to determine video programs of interest to the viewer using the metadata and the viewer preference data (**Abstract, [0019]-[0022], [0112], [0118]**).

Art Unit: 2623

Regarding claim 6, Barton teaches a method in a video distribution system, further comprising providing alerts to the viewer for programs determined to be of interest to the viewer **(When a program is found to be of interest for the user, information about the program is shown on top of the display, [0125]-[0126])**.

Regarding claim 7, Barton teaches a method in a video distribution system, further comprising automatically recording programs determined to be of interest to the viewer **([0020], [0117]-[0124])**.

Regarding claim 8, Barton teaches a method in a video distribution system, wherein the metadata further comprises metadata describing the subject matter of segments of video programs **([0108]-[0109], [0112])**; and wherein said processing determines video programs and segments of video programs of interest to the viewer **(Abstract, [0019]-[0022], [0112], [0118])**.

Regarding claims 16 and 21, Barton teaches a method in a video distribution system, wherein the viewer preference data represents viewer preferences for subject matter corresponding to categories of a predefined the subject matter category hierarchy **([0128]-[0135])**.

Regarding claim 17, Barton teaches a method in a video distribution system, comprising:

detecting, at a set-top box, an event requiring reload of viewer preference data at the set-top box ([0046]-[0047];

transmitting a request for the viewer preference data from the set-top box to a remote device ([0106]-[018]);

transmitting viewer preference data associated with the set-top box from the remote device to the set-top box in response to the request; and receiving and storing the viewer preference data at the set-top box ([0050]-[0055]).

Regarding claim 18 and 20, Barton teaches a method wherein the event is a set-top box reboot or wherein the event is a first launch of set-top box software ([0046], [0182] where after being shut down for months, the set-top box is rebooted and at the same time the software is first launched after the shut down).

Regarding claim 19, Barton teaches a method wherein the event is a set-top box memory failure ([0184]).

Regarding claims 22 and 24, Barton teaches a method in a video distribution system, comprising:

storing viewer preference data associated with a set-top box in a database associated with a device that is remote from the set-top box ([0103]-[0104]);

updating the viewer preference data in the remote device in accordance with changes to a predefined subject matter category hierarchy used to represent viewer subject matter preferences in the viewer preference data ([0128]-[0135], where by **receiving the user preference updates, the web server detects the changes of the preference data**); and

transmitting the updated viewer preference data to its associated set-top box from the remote device (**Replication 105, Fig. 1 or [0101], [0192]-[0205]**).

3. Claims **1, 10-13** are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (hereinafter 'Ellis', Patent No. 7, 065,709).

Regarding claim 1, Ellis teaches a method in a video distribution system comprising:

creating, at a set-top box, viewer preference data representing subject matter of interest to the viewer (**Fig. 13 a-f, col. 21 lines 3-15**)

transmitting the viewer preference data from the set-top box to a remote device; receiving updates to the viewer preference data at a web server; and (**Given that the preferences are selected at the client and saved at a server away from the household, transmission from client and reception of the data are inherent steps, col. 21 lines 3-19**);

updating the viewer preference data at the remote device in accordance with the updates received at the web server (**2012 , Fig. 21 or col. 21 lines 3-19**).

Regarding claim 10 and 13, Ellis teaches a method in a video distribution system further comprising:

receiving metadata describing the subject matter of video programs at the remote device (**col. 4 lines 56-68**); and

performing processing at the remote device to determine video programs of interest to the viewer using the metadata and the viewer preference data (**col. 20 lines 24-38; col. 21 lines 21-47**).

Regarding claims 11 and 12, Ellis teaches a method in a video distribution system further comprising alerts to the set-top box for programs determined to be of interest to the viewer and transmitting instructions to the set-top box to automatically record programs determined to be of interest to the viewer (**col. 21 lines 35-46**).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **9 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton et al. (hereinafter 'Barton', Pub. No.2006/0248558) in view of Lebouill (Patent No. 7,228,558).

Regarding claims 9 and 23, Barton teaches all the limitations of the claims they depend on. Barton also teaches a method in a video distribution system, wherein transmitting the updated viewer preference data to the set-top box is preceded by detecting the updated viewer preference data for the set-top box at the remote device **(([0128]-[0135], where by receiving the user preference updates, the web server detects the changes of the preference data)**. Barton also teaches that the set-top box updates from data broadcast by server when the content at the set-top box is not current. On the other hand, Barton does not explicitly teach that the broadcast data has the form of a message that includes the media access controller (MAC) address of the set-top box in the message and that the set-top box sends a request of updated.

However, in an analogous art, Lebouill teaches a server that transmits messages or data to one or multiple clients using dynamically assigned MAC addresses (col. 12 lines 55-67). Lebouill also teaches that the set-top box sends messages to the server requesting data (col. 3 1-67), which is a well-known feature in server-client communication.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Barton's invention with Lebouill's teaching of using dynamically assigned MAC addresses to send messages and having the client

Art Unit: 2623

requesting content for the benefit of connecting to a client reducing the chance of third-party interception of a static MAC address of a client.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Parra whose telephone number is 571-270-1449. The examiner can normally be reached on Under Academy Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2623

OP

A handwritten signature in black ink, appearing to read "Chris Grant", is positioned above the printed name.

**CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**